IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
MISC. CIVIL APPLICATION NO.54 OF 2005

Sanjana Santhosh Godambe Applicant

Vs.

Santhosh Krishna Godambe Respondent

Ms.T.Parakkadan for applicant.
Mr.Sandesh Patil for respondent.

CORAM: B.H.MARLAPALLE,J.
August 05, 2005.

ORAL ORDER:

1. Heard the learned counsel for the respective parties. The applicant-wife has moved this application for transfer of Marriage Petition No.22 of 2005 presently pending in the District Court at Thane to the Family Court at Bandra, Mumbai.

2. She states that after her marriage which was performed on 17-2-2003 at Chembur she stayed in the matrimonial home at Bhiwandi. During her short stay in the matrimonial home she alleges that she was subjected to cruelty and, therefore, in the month of June 2003 she came back to her parents at Chembur and subsequently filed Petition No.E-389 of 2003 in the Family Court at Bandra for maintenance under Section 125 of the Cr.P.C. The said proceedings are pending

as at present. In retaliation the respondent-husband has filed a divorce petition under Section 13 of the Hindu Marriage Act, 1955. She has no financial support and her both the parents are without income. The proceedings in the Family Court at Bandra are being conducted without charging any professional fees and, therefore, it would be convenient and economical for her to transfer the divorce petition filed in the Court at Thane to the Family Court at Bandra.

3. The respondent-husband has filed the affidavit-in-reply and has opposed the prayer for transfer. Mr.Patil, the learned counsel for the respondent-husband states that the husband is working in the Sanitary Department at Bhiwandi Municipal Corporation and he is willing to pay the local transportation charges from Chembur to Thane and back to the wife as well as the witnesses as and when they are required to attend to the Court at Thane. It is further pointed out that the maintenance application pending in the Family Court at Bandra has been settled and as per the said settlement the husband has agreed to pay an amount of Rs.1000/- per month by way of maintenance to the wife and the amount of

arrears from October 2003 to June 2005 is also offered to be paid by way of a demand draft. As per Mr.Patil nothing further survives in the pending proceedings in the Family Court at Bandra and, therefore, it would be in the interest of both the parties that the transfer application is not entertained. He has also pointed out that the local journey from Chembur to Thane and back is more economical than the local journey from Chembur to Bandra and back.

4. The applicant-wife is not having any income of her own and her parents' financial conditions do not permit to support her. Even if the proceedings for maintenance are settled, she is confident that if the proceedings initiated by the husband are transferred to the Family Court at Bandra, she may not be required to spend on the Advocate's fees, whereas she may not have the same benefit if the proceedings are continued in the Court at Thane. The learned counsel for the applicant-wife also states that in the Family Court at Bandra the conciliators play some role in bringing about settlement between the spouses. Some efforts were made in this regard and it appears that the settlement between the parties is not impossible.

The wife has shown her inclination to cohabit with the husband.

5. Taking into consideration the arguments advanced by both the parties it would be expedient that the divorce petition pending in the District Court at Thane is transferred to the Family Court at Bandra. However, Mr.Patil, the learned counsel for the respondent-husband stated that the Family Court at Thane is also likely to commence its proceedings shortly.

6. The application is allowed and it is directed that the Marriage Petition No.22 of 2005 be transferred from the District Court at Thane to the Family Court at Bandra, Mumbai, if the Family Court at Thane is not established within a period of four weeks from today.

(B.H.MARLAPALLE,J.)